

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Irby Gene Dewitt,)	
)	
Petitioner,)	
)	
vs.)	Civil Action No.: 9:10-cv-2573-TLW-BM
)	
Warden John R. Owens,)	
)	
Respondent.)	
_____)	

ORDER

On October 4, 2010, the petitioner, Irby Gene Dewitt (“petitioner”), proceeding pro se, filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. (Doc. #1). The case was referred to United States Magistrate Judge Bristow Marchant pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2), DSC.

This matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed by the Magistrate Judge to whom this case had previously been assigned. (Doc. # 11). On November 18, 2010, the Magistrate Judge issued the Report. In the Report, the Magistrate Judge recommends that the petitioner’s habeas petition be dismissed without prejudice and without requiring the respondent to file a return. (Doc. # 11). The petitioner filed no objections to the Report. Objections were due on December 6, 2010.

This Court is charged with conducting a de novo review of any portion of the Magistrate Judge’s Report and Recommendation to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. §

636. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this Court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The Court has carefully reviewed the Magistrate Judge's Report and Recommendation. It is hereby **ORDERED** that the Magistrate Judge's Report is **ACCEPTED**. (Doc. # 11). For the reasons articulated by the Magistrate Judge, the petitioner's habeas petition pursuant to 28 U.S.C. § 2241 is **DISMISSED** without prejudice and without requiring the respondent to file a return.¹

IT IS SO ORDERED.

s/Terry L. Wooten
United States District Judge

April 25, 2011
Florence, South Carolina

¹ The Court also notes that the petitioner currently has a 28 U.S.C. § 2255 motion pending before the Court in which he makes the same argument asserted in this § 2241 action. See Dewitt v. United States, Criminal No. 4:04-cr-795-TLW, Civil No. 4:11-cv-70013-TLW (Docs. 189, 190); See also Colonial Penn Ins. Co. v. Coil, 887 F.2d 1236, 1239 (4th Cir. 1989) ("We note that '[t]he most frequent use of judicial notice of ascertainable facts is in noticing the content of court records.'"). Accordingly, the relief being sought in the instant case is moot based on this other proceeding.